

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

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10	CHELSEA, LLC, MARK RUSSO, ALLEN	) Case No. 07-5800 SC
11	LORETZ, and IVAN SIMPSON,	) (and related cases:
12	individually and on behalf of all	) 07-6045 SC
13	others similarly situated,	) 07-5926 SC)
14		)
15	Plaintiffs,	) ORDER RE DEFENDANTS'
16		) COMMUNICATION WITH
17	v.	) PUTATIVE CLASS
18		) MEMBERS AND ORDER
19	REGAL STONE, LTD., HANJIN SHIPPING,	) <u>LIFTING STAY</u>
20	CO., LTD., CONTI CAIRO KG, NSB	)
21	NEIDERELBE, SYNERGY MARITIME, LTD.	)
22	<u>IN PERSONAM</u> , M/V COSCO BUSAN, their	)
23	engines, tackle, equipment,	)
24	appurtenances, freights, and cargo	)
25	<u>IN REM</u> ,	)
26		)
27	Defendants.	)
28		)

At the hearing held on February 22, 2008, the Court ordered Defendants to inform those individuals who have already signed Defendants' so-called "Prepayment Advance Form" that by signing this form, these individuals had in no way waived or prejudiced their right to join any lawsuit against Defendants for the oil spill resulting from the crash of the Cosco Busan on November 7, 2007. In a letter submitted April 15, 2008, Defendants, in defending their failure to comply with the Court's order, stated that "they believe it is premature to provide notice to claimants

1 who have previously executed releases . . . ." Docket No. 83.

2 In light of this willful failure to comply with the Court's  
3 prior order, and pursuant to Federal Rule of Civil Procedure 23(d)  
4 and the Supreme Court's holding in Gulf Oil v. Bernard, 452 U.S.  
5 89 (1981), the Court hereby ORDERS the following:

6 - Defendants shall draft and send a letter to all individuals  
7 who have signed the Prepayment Advance Form or any other claims  
8 process forms issued by Defendants or Hudson Marine.

9 - The letter shall indicate that by signing a release form,  
10 claimants have in no manner waived or prejudiced their right to  
11 join any lawsuit or class action against Defendants for the oil  
12 spill damages resulting from the crash of the Cosco Busan on  
13 November 7, 2007.

14 - By 12:00 p.m. on May 2, 2008, Defendants shall submit an  
15 affidavit indicating that they have complied with this Court's  
16 Order.

17 - A copy of the above-described letter shall be attached to  
18 the affidavit and submitted to the Court.

19 - If Defendants fail to comply with this Order by May 2,  
20 Defendants are to appear in Courtroom #1 on the 17th floor at  
21 10:00 a.m. on Monday, May 5, at which time the Court will impose  
22 sanctions for non-compliance with this Court's orders.

23 - Furthermore, Defendants shall amend their "Prepayment  
24 Advance Form" so that it clearly states that acceptance of any  
25 payment is without prejudice to pursuit of any legal action in a  
26 court of law, or join any class action concerning this matter.

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1           - The stay on discovery is lifted, notwithstanding the right  
2 of any party to exercise any privileges to which he or she may be  
3 entitled.

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6           IT IS SO ORDERED.

7           Dated: April 25, 2008

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11           UNITED STATES DISTRICT JUDGE